

**WSR 11-03-074  
DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

[ Filed January 18, 2011, 11:06 a.m. ]

**Notice of Pending and Potential Legislation**

**Regarding Medicaid Payment Rates to Nursing Facilities**

The department of social and health services (DSHS) provides the following description of bills now under consideration by the Washington state legislature. If enacted, the bills would impact the nursing facility medicaid payment system, chapter 74.46 RCW. During session, the legislature can substantially change these proposals and there is no guarantee that any of the proposals will be enacted. To find and read the full text of bills before the legislature go to <http://apps.leg.wa.gov/billinfo/>.

Please comment on any of these proposals by doing any or all of the following:

- Contact your legislators. To identify your legislators and/or how to contact them go to [www.leg.wa.gov](http://www.leg.wa.gov);
- Call the legislative hotline at 1-800-562-6000 to leave a message on any issue;
- Comment to the legislative committees considering the bills and/or attend their hearings on the bills. To identify the committees, the hearing schedules, and/or to sign up and receive e-mail notices about the hearing schedules go to [www.leg.wa.gov](http://www.leg.wa.gov); and/or
- Send comments to Kathy Marshall, director, management services division, aging and disability services administration, DSHS at [MarshKA@DSHS.wa.gov](mailto:MarshKA@DSHS.wa.gov).

**SB 5041 and HB 1149:** These identical "companion" bills would clarify that in calculating the "financing allowance" component rate, the "minimum occupancy" assumption would be eighty-five percent for essential community providers, ninety percent for small nonessential community providers, and ninety-two percent for large nonessential community providers. Each would also clarify that "bed banking" would no longer have any effect on the calculation of the financing allowance component.

Each bill would also clarify that, after DSHS has fully implemented minimum data set 3.0, there will be no requirement to adjust any semiannual rate setting which used the previously established case mix adjustment using the new minimum data set 3.0 data.

Further, each bill would provide that, to allow for the transition to minimum data set 3.0 and implementation of resource utilization group (RUG) IV, for the July 1, 2011, through July 1, 2012, cost-rebasing periods, DSHS may determine the calendar quarter or quarters upon which the facility average case mix index will be calculated.

**HB 1249:** The governor's supplemental budget proposes certain changes to the nursing facility medicaid payment system in chapter 74.46 RCW. HB 1249 would make these statutory changes, which would:

- Amend RCW 74.46.431 to provide, beginning July 1, 2013, for the rebasing of costs biennially during every odd-numbered year, using cost report data from two years prior to the rebase period. For example, adjusted cost report data from 2011 would be used for rates from July 1, 2013, through June 30, 2015, and so forth. Adjusted cost report data for calendar year 2007 would continue to be used for rates through June 30, 2013.
- Amend RCW 74.46.437 to provide that the factor used to calculate the allowable return on investment in setting the financing allowance component rate be changed to 4.0 percent for all facilities, from the current two-tiered factor of ten percent or 8.5 percent depending on date of acquisition. The section would also be amended to clarify that in calculating the financing allowance component rate, the minimum occupancy assumption would be eighty-five percent for essential community providers, ninety percent for small nonessential community providers, and ninety-two percent for large nonessential community providers. The section would further be amended to clarify that bed banking would no longer have any effect on the calculation of the financing allowance component rate.
- Amend RCW 74.46.485 to provide that DSHS may adjust the case mix index for any of the lowest ten resource utilization group categories beginning with PA1 through PE2 to any case mix index that aids in achieving the purpose and intent of RCW 74.39A.007 and cost-efficient care; and to remove the requirement that, after DSHS has fully implemented minimum data set 3.0, it must adjust any semiannual rate setting in which it used the previously established case mix adjustment using the new minimum data set 3.0 data.
- Amend RCW 74.46.496 to provide that case mix weights shall be determined by assigning the lowest case mix weight (rather than a case mix weight of 1.000) to the resource utilization group III classification group with the lowest total weighted minutes.
- Amend RCW 74.46.501 to provide that, to allow for the transition to minimum data set 3.0 and implementation of resource utilization group IV for the July 1, 2011, through July 1, 2012, cost-rebasing periods DSHS may determine the calendar quarter or quarters upon which the facility average case mix will be calculated.
- Repeal RCW 74.46.433 concerning the variable return component rate. The effect of the repeal would be to accelerate the termination of the variable return component rate to March 1, 2011, from the currently scheduled termination date of July 1, 2011.

This proposal has an emergency clause that would put it into effect on March 1, 2011.

In addition to the possible legislation described above, other legislative proposals impacting the nursing facility medicaid payment system, chapter 74.46 RCW, may be considered by the legislature. Persons interested in this subject should frequently check the legislative web site noted above.